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THE HUI LANDS OF KEANAE: HAWAIIAN LAND TENURE AND THE GREAT MAHELE

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In Western society, land tenure means ownership, the right to alienate; land is definitively property, something to be bought and sold on the market. But in a society ordered by kinship and lacking a concept of private property, land tenure is a matter of access, use and occupation: it is "holding" rather than "owning." Hawaiians use the phrase, "taking care." In the latter half of the 19th century, groups of Hawaiians formed associations (land *huis*), to purchase tracts of land as tenants-in-common. The land *hui* holds a certain mystique for students of Hawaiian culture for its possible link to "traditional" institutions. In this essay, I present an explanation for the emergence of Hawaiian land *huis*, and analyse the relationship of this institution to traditional Hawaiian land tenure. I draw on records from the Great Mahele, the land division of 1847-55, and on archival materials relating to the land *huis* of Keanae, an old taro-growing community on the windward side of Maui.¹ The *hui* lands of Keanae (Fig. 1) are a revealing example for this discussion because they are still held by Hawaiians, and because, as will be shown, their present-day use and tenure status do not differ radically from the time when they were first established.

The emergence of this form of collective enterprise soon after the Great Mahele, which established fee-simple land ownership in Hawaii, suggests that the *hui* attempted to recreate a "primitive" form of communal ownership. Watson implies that communal landholding was more congenial, and more familiar, to Hawaiians than private ownership:

. . . it is evident that the fundamental reason for the *huis* was that ownership of an undivided interest in a large tract of land was far more adaptable to the Hawaiians' needs and background than ownership in entirety of small parcels (Watson 1932:9).

Land tenure in traditional Oceanic societies is said to be characterised by "a complete absence of fee simple ownership and a corresponding

presence of entailed family estates" (Lundsgaarde 1974:vii). But in Hawaii, political authorities had ultimate disposition over the land, and could interfere with familial succession. Land was not held privately and exclusively, but neither was it held communally—by members of a group—at any level. Land in Hawaii, the '*āina*,² involved a complex of rights, which differed according to one's place in the political hierarchy. Land gave the common people their identity, the sense of "belonging" to a place, an identity conferred by the inherited burial-right in the land of their ancestors (Kamakau 1961:376). The commoners essentially had the right to use and occupy the land indefinitely, as long as they met the

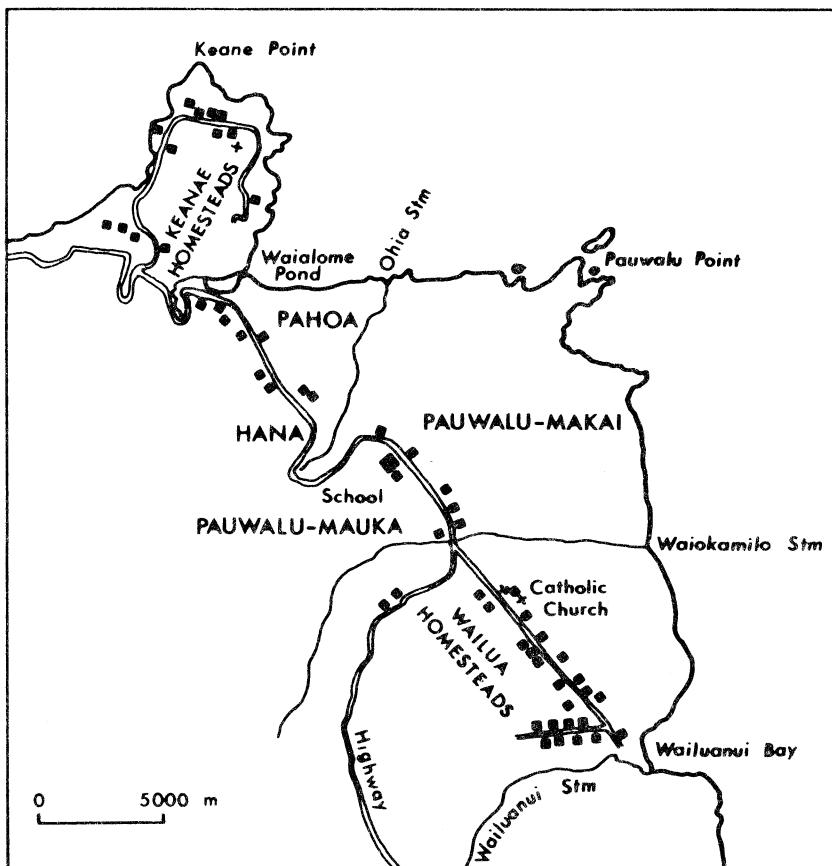


FIGURE 1
Keanae and Wailua

tributary and labour demands of the chiefs. Distribution rights to the land lay with the ruling chiefs; the chiefs' agents, (*konohikis*)³ had disposition over local use-rights. Neither the chiefs, the people, nor the *konohikis* "owned" the land in the Western sense. They could not alienate it permanently, and their tenure was always at the discretion of a higher-ranking *konohiki*. Ultimately, the land belonged to the highest-ranking chief; after the formation of the Hawaiian kingdom, this was the king (Kamakau 1961:376).

Hawaiian land tenure lacked a concept of ownership as divorced from use. As explained in an early Hawaiian petition⁴, objects not made by the hand of man could not be "owned," i.e., they could not be set aside for the exclusive or perpetual use of any individual. Beneath the ruling chief, all holders were considered to be "taking care" of the land, a phraseology that Hawaiians use today when someone cultivates or occupies land owned by someone else. Use-rights in a locality were granted by the *konohiki*, who administered the land for the ruling chief. The *konohiki* "owned" the land only in the sense that he controlled its distribution and regulated its tributary relations with the high chief. The practice of awarding conquered lands to loyal subordinates, which reached its height under Kamehameha I,⁵ was intended to centralise and consolidate the power of the chieftainship. Land redistribution after conquest imposed alien levels of *konohikis* over local areas. During the first half of the 19th century, the stratification of "owners" from chief to tenant intensified as demands on the commoners increased:

. . . many lands have six or eight owners at the same time. For instance, Waialua, containing perhaps one or two thousand acres in all, has seven lords, one above the other, and all of them are over the people, and claim services from them occasionally (Wyllie 1855:44-45).

The *konohiki*'s distributive authority did not preclude the inheritance of land through the family. Numerous citations in Mahele testimony attest that both modes of transmission occurred, and that Hawaiians recognised the dual basis of their tenure. Particular plots were passed down from parents to children, and the family's tenure was contingent upon a *konohiki*'s will. Commoners were expected to keep their lands under cultivation and to contribute labour and food for the chief's sustenance, or risk eviction (Kamakau 1961:177, Macrae 1922:31, Mathison 1825:450). Although chiefs and *konohikis* had the right to dispossess native tenants, this right was not often exercised arbitrarily in precontact times (Ellis 1917:316). The land was intrinsically identified with the *maka'āinana*, the long-time residents on the land. Commoners for the most part cultivated and lived upon land inherited from their ancestors:

True the chiefs had the right to the fruits of the land and the property of the land and the property of the people, and when a chief was overthrown in war his followers also moved on. But it was they who were the wanderers; the people born of the soil remained . . . (Kamakau 1961:376).

According to Kamakau, it was during Kamehameha's wars of conquest that "land irregularities"—eviction and dispossession—became frequent.

It is tempting to speculate that with the land *hui*, Hawaiians recreated a pre-Mahele, if not precontact, form of landholding. Yet traditionally, there was a hierarchy of control over the 'āina; different individuals had different sorts of rights in the same land and at the same time. Anyone who received land, whether from a *konohiki* or by inheritance, could in turn apportion plots for cultivation to relatives or dependants, whether in the same or a separate household, who then lived "under" the giver. At every level, the land relation was hierarchical, and implied the subordination of the land-taker. Even within the family, control over the land's disposition was vested in a senior individual. A commoner's bequest to her daughter illustrates the hierarchy within the family:

Paakuku shall remain upon the land . . . and have the charge of it and the regulation of it as I have done . . . Her brothers and sisters are to live on the land under Paakuku as they have lived under me . . . everything pertaining to the land is to be had by the consent of the one whom I have appointed to have charge in my place. Let the younger brothers and sisters live under her pleasantly without evil thoughts which shall obstruct their living on the land.⁶

"Belonging to" a place conveyed a theoretical right to remain on the land but not necessarily to control any particular parcel. Statistical tabulations from Mahele testimony indicate that, most often, land was inherited by the eldest son and descended to his offspring. The practice of imitable inheritance effectively disfranchised junior siblings. They could continue to live "under" their senior, the "*haku 'āina*,"⁷ or leave. An alternative for landless junior collaterals was to find another *haku 'āina*, such as by marrying matrilocally. The commoners' identification with the land meant, for most *maka'āinana*, the right to remain there as tenants of someone else.

Land was used and "cared for" by the members of a household, not by a larger kin group. The previous anthropological understanding (Handy and Pukui 1972) of the Hawaiian local group, as a branch of a ranked lineage on the Polynesian conical clan model, is "consistently contradicted" by the land records (Sahlins 1974:11-13). The Handy and Pukui model stipulates that the *ahupua'a* land section⁸ was the territorial

arm of a lineage segment, or ‘*ohana*, but in the few cases where the term ‘*ohana* appears in Mahele testimony, it refers to a domestic group (Sahlins personal communication). Nowhere do Hawaiian witnesses in the Mahele or in 19th century court cases describe anything like a corporate kin group. Commoners had shallow genealogies, and generally traced relationships back no further than the grandparental generation. The local community was not composed of descent groups, but of overlapping bilateral kindreds. This horizontal dimension of kinship corresponds to the modern Hawaiian use of the term ‘*ohana* for those whom ego reckons as “relatives” (Linnekin 1980:115).

THE GREAT MAHELE

The Great Mahele inaugurated private land ownership in Hawaii (Chinen 1958:6-12). In the Mahele, the king divided the lands of the kingdom among himself, the government, and the chiefs. These three parts became known as Crown, Government, and *Konohiki* lands, and all were subject to the rights of native tenants.⁹ Most of the small parcels awarded to the common people as tenants were taken from the *Konohiki* lands, the one-third apportioned to the chiefs as landlords. From 1848 to 1855, the Board of Commissioners to Quiet Land Titles evaluated the testimony of Hawaiians on claims for land. Chiefs and commoners alike had to substantiate their claims before representatives of the Land Commission (Chinen 1958:20-21). Usually long-time residents of the land section in question offered testimony corroborating when and from whom the claimant had received the land. They also recited each parcel’s boundaries by physical features, adjacent ‘*ilis*,¹⁰ or the names of neighbouring landholders. The Land Commission reviewed the testimony and made its decisions in Honolulu. If successful, the claimant was awarded a Land Commission Award, which conferred fee-simple title to the property (Chinen 1958:13).

The Land Commission Awards or *kuleanas*¹¹ granted to native tenants were meant to establish the commoners’ inalienable rights to the lands they had long cultivated and lived upon. The acreage ultimately awarded to commoners was minuscule compared with the extent of Crown and Government lands,¹² but the *kuleanas* included some of the prime taro-growing lands in the kingdom (Chinen 1958:31). The small average size of the awards attests to the high productivity of taro and the intensive nature of Hawaiian agriculture. By the law of August 6, 1850, commoners could apply only for lands “which they had actually cultivated.”¹³ Commoners “were not permitted to acquire waste lands” (Chinen 1958:30). This restriction derives from a traditional premise of the *konohiki*/tenant relationship: that uncultivated and abandoned lands

belonged to the *konohiki* of the land section. Under the labour tax, commoners worked lands set aside for the chiefs' support as well as plots for their own subsistence (Kamakau 1961:177). But in the Mahele, claims were restricted to the lands "actually cultivated for a living" (Chinen 1958:30). This limitation proved critically important for the destiny of Hawaiian lands after the Mahele.

For a variety of reasons, many Hawaiians never received *kuleanas* for the land that they occupied and cultivated. By law, all claims for land had to be filed by February 14, 1848.¹⁴ Many Hawaiians failed to file their claims by the deadline. Legislation later provided an extension to June of 1862 "for the relief of certain *konohikis*" who had failed to present their claims within the allotted time,¹⁵ but no such allowance was granted to commoners. In many cases, Mahele claims also show a fundamental clash between the Western definition of property and the natives' idea of what was rightfully theirs. Hawaiians claimed "clumps" (*ōpū*) or scattered plots of growing crops, which were almost never awarded. A *konohiki* in Manoa Valley, Honolulu, claimed "the trees of the forest at Kolowalu, and the fish in the sea."¹⁶ Some commoners never appeared to substantiate their claims and others willingly surrendered their claims to the *konohiki* of the *ahupua'a*. Clearly, many natives did not comprehend the meaning of private *kuleanas*, and believed that they could continue to live "under the *konohiki*" as they had always done.

KALO AND KULA

Kalo and *kula*, wet and dry land, were the primary categories of Hawaiian agriculture. *Kalo* 'taro' lands were usually located in valley bottoms. Andrews (1865:310) defines *kula* as "the country in the rear of the seashore; the open country back from the sea . . . Any open uncultivated land . . . A field; a pasture." The category *kula* could include uplands unsuitable for agriculture, lands lying fallow from taro cultivation, land planted with scattered gardens, or open pasturage for animals. According to Malo (1951:205), *kula* crops included upland taro, sweet potatoes, and sugar-cane. On the windward side of Oahu, Hawaiians planted the *kula* in watermelons, potatoes, 'awa,¹⁷ *wauke*,¹⁸ bananas, *noni*,¹⁹ tobacco and coffee trees.

Neither control over taro lands nor access to them was communal. Taro patches allocated to a subordinate were his or her household's to cultivate and harvest, reserving the *konohiki*'s share. But before the Mahele, the uplands and forests—the large tracts of "waste" and *kula*—were effectively common lands, accessible to commoners. Like all lands in the district, they ultimately belonged to the ruling chief, but

since they were not suitable for extensive cultivation, they were not allocated to the people in parcels. In the uplands, Hawaiians gathered wild produce and cultivated scattered plots of *olonā*,²⁰ *wauke* and other dryland crops. They "owned" the standing crops that they planted and tended in the *kula*, but not the land beneath. After the introduction of hoofed animals, commoners used the *kula* for pasturage. Access to the uplands was common, but use was a household matter. The same landholders who tended taro patches in the lowlands had plots of secondary cultigens in the *kula*, and, reserving the *konohiki*'s share, the yield of each stand belonged to the household that produced it.

In taro-growing areas, the standard formula for land claims included both *kalo* and *kula*. Each household evidently used, or had the right to use, a variety of dispersed productive zones. The Native Register, the file of initial claims made to the Land Commission, includes many references to scattered and "unboundable" plots: a melon patch in one 'ili, a "clump of *olonā*" or *wauke* in another, a stand of *koa*²¹ trees "for canoes". Such claims yield invaluable insight into the Hawaiian productive system, but they did not correspond to the Land Commission's notion of real estate.

The fact that commoners were only entitled to lands that they actually cultivated contributed significantly to the alienation of Hawaiian lands during and after the Mahele. In most land sections, there are consistent discrepancies between the claims and subsequent awards, and in the vast majority of these cases the claim exceeds the award. Not only did Hawaiians lose legal access to their dispersed and "unboundable" plots in the Mahele, but also they were rarely awarded the *kula* that they claimed, unless it was cultivated at the time of testimony. If "nahelehele" 'fallow' (lit. 'full of weeds'), the parcel was not awarded.

In most areas, taro lands lying fallow were rarely awarded unless they were claimed in one piece with cultivated patches or a houselot. In Manoa Valley, Honolulu, Hawaiians typically claimed both *kalo* and *kula*, the latter planted in sweet potatoes ("*kula mahi 'uala*") or used for houselots. Yet even cultivated *kula* was rarely awarded unless a house stood on the parcel. The *kula* was particularly vulnerable to alienation during the Mahele because, by definition, it was unlikely to be extensively cultivated. Taro patches were more amenable to the Western notion of "parcels". The commoners believed that they had the right (*kuleana*) to use the products of the *kula*, as they had always done under the *konohiki*. While less important than *kalo* land for subsistence, *kula* nevertheless was an integral part of the Hawaiian economy. By supporting secondary crops and later livestock, the *kula* was the source of raw materials, and made possible the self-sufficiency of the local community.

But the *kuleanas* established by the Mahele were private and exclusive. After the Mahele, Hawaiians found themselves enjoined from "trespass" on *kula* and in forests where they had formerly grazed animals and gathered firewood, *kukui* nuts,²² and other products. These traditional *kuleanas* were not the business of the Land Commission. A missionary's letter describes the commoners' use of the *kula*, and their rage at its loss:

The word has gone forth from the chiefs to all their *konohikis* to forbid all such *makaainanas* who get their land titles, the privileges they formerly enjoyed from the *kula* of the landlord . . . They are not to pull grass for their feasts or *ilima* for fuel, nor go into the mountain for any *ki* leaf or *ki* root or timber of any kind. Their horned cattle are prohibited from ranging in the *kula* . . . It has nearly raised a rebellion among the people of Waianae . . . they say the chiefs have no [*aloha*] for them²³

Use of the *kula* was transformed in the first half of the 19th century. By the time of the Mahele, both foreigners and Hawaiians were using open tracts for pasturing livestock, primarily cattle. Vancouver introduced cattle to the island of Hawaii in 1794, and Kamehameha put a *kapu* 'taboo' on them for 10 years (Kuykendall 1968:40-44). Left unmolested, the cattle multiplied and prospered, eventually contributing to the ruin of subsistence agriculture in many parts of the islands. Not until 1830 were the cattle hunted for commercial use of their hides, tallow and salt beef (Kuykendall 1968:317-18). Although foreigners had been the first to keep herds of cattle, Hawaiians, too, were keeping a few horses and cattle by the 1830s, in addition to the traditional pigs and goats. In 1846, a missionary estimated that 1000 Hawaiians on the island of Oahu owned "quadrupeds of the larger kinds."²⁴ By the mid-1840s, cattle were a destructive menace in many areas.

Mahele records from Kawailoa, on the north shore of Oahu, describe an apparent forerunner of the land *hui*, formed in response to the depredations of foreigners' cattle. Many Kawailoa residents claimed plots in the "*pa hui*" of Uko'a, a "collective enclosure" variously called the *pa ipu* 'melon enclosure' and *pa 'uala* 'enclosure for sweet potatoes'. J. S. Emerson, the missionary for Waialua District, called it a "great potato field . . . in a very strong enclosure which the people made for themselves."²⁵ In 1835, Emerson reported that "not less than 2 miles" of fence had been erected "for the security of cultivated lands."²⁶ The purpose of such enclosures was clear: to protect the residents' fields from marauding cattle. A Hawaiian witness to the Land Commission described the origin of the *pa hui*:

We used to cultivate this place, but because of the trouble from

the cattle, we stopped; however, Laanui [chief over Kawaihoa] consented to our cultivating that place, so we enclosed it. There are 60 of us perhaps whose enclosure this is.²⁷

The land called Ukoia lay near the sea at the mouth of the Anahulu River. The land was *kula* because it was open and cultivatable, if not suitable for wetland taro. Although the *pa hui* was collectively built, the Hawaiians cultivated their melon and potato fields within it individually. Once again, access to the *kula* was common, but production was a household matter. In the Mahele, Hawaiians in Kawaihoa claimed their separate plots in the *pa hui* just as they claimed their taro patches. Traditionally, these *kula* fields would have been scattered in open lands. In 1846, Emerson protested against a chief's dictum that commoners must fence their small parcels lying in the middle of the *konohiki*'s *kula*: "If every man must fence his own patch that lies within the common cultivated land in order to have it *malu* [protected], he is in a sad case."²⁸

We cannot tell whether the idea for the *pa hui* originated with the Hawaiians. Emerson's letters demonstrate his concern for fencing native lands against cattle, and there are indications in his correspondence that he may have advised the Hawaiians accordingly. Emerson assisted the Kawaihoa people with their claims to the Land Commission. The fact that the parcels at Ukoia were contiguous and enclosed undoubtedly contributed to the high frequency with which they were awarded, unlike the scattered *kula* plots claimed in many other areas. Emerson also served as Government Agent for Sale of Lands in Waialua specifically to safeguard the Hawaiians' interests.²⁹ Against the chiefs' will, Emerson sold cattle to the commoners in 1846,³⁰ and conveyed large *kula* tracts to them in 1850.³¹

By the time of the Mahele, open lands were used as "common pasture grounds" for the Hawaiians' livestock.³² Cattle, horses, mules and donkeys were branded with the owner's mark; each brand had to be registered with the Government for a fee, and registering brands was an important enough activity to occupy the Governor of Oahu.³³ In 1846, Emerson protested the Government's plan to partition and lease the Hawaiians' pasture land: "The land has been a common pasture for the people say, beyond the memory of man."³⁴ Emerson estimated that 100 pigs, 100 goats, 20 donkeys, 40 horses, and 50 cattle belonging to 100-200 people ran on "what may be perhaps appropriately called their common swine pastures." In Mahele testimony, Kawaihoa residents called this land their "cattle *kula*" (*kula bipi*) and "kula to raise animals" (*kula hānai holoholona*).

In many districts, the alienation of the *kula* was a factor driving Hawaiians from the land after the Mahele. Commoners were frequently

awarded *kuleanas* adjacent to, or surrounded by, vast tracts of *kula* belonging to chiefs or to the Government. As early as the 1830s, these tracts were partitioned and sold to foreigners. The sale of such lands in a district usually heralded the gradual forcing-out of small Hawaiian land-holders. In Kohala, on the island of Hawaii, Elias Bond acted as Sub-commissioner to the Land Commission when the *kula* was put up for sale:

. . . it came to be known that the government lands of this district were for sale and it was reported that applications for large tracts had been made by certain foreigners . . . there was no chance for a common native living in a remote district like this (Damon 1927:256).

The files of the Minister of Public Instruction³⁵ are filled with petitions and letters protesting the foreigners' use of the *kula*. Often, the large landowners not only prohibited Hawaiians from using the uplands, but filled the *kula* with livestock, which overran the small *kuleanas* and destroyed crops. If Hawaiians' cattle or pigs trespassed on the foreigners' lands, however, they were liable to be shot or confiscated, with apparent Government sanction.³⁶ As Hawaiians sold or abandoned their lands, the cattle were free to graze further and further down the length of the valleys:

Here in Makaha, plants do not grow . . . The patches are . . . trampled upon, the furrows hopelessly ruined, the crops crushed irreparable, by hoofs . . . some of the people who live on the land . . . go some where else to live permanently, because the crops have been destroyed by animals.³⁷

Under these conditions, entire *ahupua'a*'s were gradually abandoned by Hawaiians during the latter half of the 19th century. The 1867 tax assessment for Kalihi-*uka*, the upland third of Kalihi Valley, Honolulu, illustrates the fate of *kula* lands. Of 48 landholders assessed in this land section, only one is Hawaiian; the highest assessment was paid by a foreigner.³⁸ Ironically, by granting private titles the Mahele made possible the irreversible dispossession of the very natives whose rights it was designed to preserve. Clearly, Hawaiians tended to abandon lands where they lost the *kula* because of the encroachment of foreigners' livestock, and because they lost access to their common lands. The *kula* is the key to the emergence of land *huis*.

HUI LANDS

Traditionally, *hui* was apparently a generic term for a joint undertaking. The 1865 Andrews dictionary (1865:221) defines *hui* as "a uniting; an assembling . . . A cluster or collection of things." Describing

native Hawaiian *huis*, Mary Kawena Pukui gives the gloss, 'groups' (Handy and Pukui 1972:17). The word came to mean a corporation or partnership (Pukui and Elbert 1971:81) during the mid-19th century, when it was applied to a variety of business enterprises. Native Hawaiian *huis* appeared after the Mahele, and were most often involved in "co-operative agricultural and fishing enterprises." Handy and Pukui (1972:17) suggest that the Hawaiian *hui* was an attempt to recreate the economic function of the extended family, the '*ohana*', but they note that most such ventures were "dismal failures" unless the *hui* members were initially related.

The land *hui* differed from other Hawaiian co-operatives in that it did not necessarily imply joint economic activity. Most land *huis* were "co-tenancies," formed for the purpose of purchasing real estate (Watson 1932:9). By definition, *hui* land is owned communally by all the members of the group, each of whom has a fractional share of the whole. No one member, however, has the right of title to any *specific* parcel within the total area. A *hui* member claiming an interest of two acres, for example, actually owns only a general share equivalent to that area; he may sell his share, but he cannot legally alienate any particular acreage.

The emergence of Hawaiian land *huis* coincided with the availability of Royal Patent Grants,³⁹ Crown and Government lands that were sold to individual applicants with no restrictions on the buyer's identity. The purchase price was initially one dollar per acre, for tracts ranging from less than an acre to several hundred acres (Watson 1932:9). Many Hawaiians who did not receive *kuleanas* in the Mahele saw Royal Patent Grants as a second chance to acquire land. Most Hawaiian land *huis* were formed to purchase Royal Patent Grants from the Government. Typically, these tracts were much larger than the grants sold to individuals. Watson (1932:9-12) distinguishes "small," "unorganized" *huis* of up to 200 acres from large, "organized" *huis* that ranged up to 2500 acres. The latter had from 100 to 200 members and were formal associations, with bylaws, elected officers, and regular meetings.

In small, "unorganized" *huis*, the members often effected an informal division of the land. Such a *de facto* division can create a quandary for the descendants of the original *hui* members, since it has no legal status. Small land *huis* were often dissolved by partition deed, sometimes at the instigation of outsiders seeking to acquire specific parcels (Watson 1932:11). The Keanae *huis* fall into the "small, unorganized" category; they range in size from 43.4 to 151.65 acres, with a maximum of 19 members. None has been formally divided, although individuals have taken *de facto* possession of specific parcels. There is no consensus in the community today as to the proper disposition of these lands. For the

most part, holders of small interests, fractionated by inheritance, do nothing with their shares and bemoan the uselessness of “undivided land.”

A late-19th century court case yields some insight into the use of *hui* land and the administration of a large, “organized” *hui*. The case involved the alleged misbehaviour of the “*Luna Nui*”⁴⁰ of a North Kona *hui*. The bylaws of the *hui*, adopted on July 14, 1891, specified that the *Luna Nui*’s duties were to call meetings, keep records, and pay the rent and taxes on the land. The rules of the association further defined the rights of the individual members:

The tenants (*hoaaina*) have the right upon the upper *ahupua‘as*, where they are living, working, pasturing animals, and have fishing rights. A *hoaaina* shall not be allowed more than nine animals, but if he has more he shall pay \$1 a head each month.

The property of the Company shall be the coffee patches, and oranges hitherto held by the *konohikis*, and also the coconuts outside of the native *kuleanas*, and the coffee and oranges of deceased people without heirs, or who may have permanently left these lands . . . and it shall be also thus with persons living without tenants rights.

All *makai* [seaward] of the division line fence is free for the turning loose of the animals of the members of the Company and the *hoaainas*.⁴¹

This *hui*’s primary function is the administration of unirrigated upland areas, used for pasturage and the cultivation of dryland crops. Significantly, the *hui* has assumed rights and functions that would have been the *konohiki*’s in pre-Mahele times. In granting individual titles, the Mahele had the effect of eliminating the middle stratum of land agents. The lesser *konohikis* were deprived of their function, and had to apply for their holdings with no special consideration. The land *hui* was made possible by the absence of these agents, and in some respects the “organized” *huis* were surrogate *konohikis*. In the North Kona example, the association’s property included that “outside the native *kuleanas*,” which precisely defines land that would have been “hitherto held by the *konohikis*.” Like a *konohiki*, the *hui* appoints an agent, the *Luna*, to manage the land. The *hui* also has the right to claim abandoned property, which traditionally would have reverted to the *konohiki* of the *ahupua‘a*.

THE KEANAE HUIS

The emergence of the land *hui* coincided with the loss of access to the common *kula*, the availability of Royal Patent Grants, and the removal

of the *konohikis*—all effects of the Mahele. In Keanae, Hawaiians formed *huis* to acquire the *kula* lands that they did not receive in the Mahele. Famed as a taro-producing area since ancient times (Handy and Handy 1972:500), Keanae is one of the few places in the islands where Hawaiians still grow taro on the land of their ancestors. “Keanae” properly refers to the *ahupua‘a* of Keanae, which stretches literally from the mountain to the sea. But today Keanae and the neighbouring valley, Wailua, form one settlement, and I use the term “Keanae” to refer to this larger community. The prime taro-growing lands are in Wailua Valley and Keanae Peninsula, both lying well below the *hui* lands, which are bisected by the state highway.

Although in most windward *ahupua‘as*, Hawaiians claimed both *kalo* and *kula* land in the Mahele, Keanae residents claimed only irrigated taro lands. There are a few exceptions; several “clumps of *olona*” were claimed, but none was awarded. Significantly, no *kuleanas* were awarded in the lands that were later purchased by *huis*. Between 1855 and 1906, 21 Royal Patent Grants were made in the Keanae area, all but one going to Hawaiians, and two-thirds dating from just after the Mahele, between 1855 and 1861.⁴² Of Hawaiians purchasing Royal Patent Grants in Keanae, only one held a Land Commission Award. But in testimony before the Land Commission, several of these individuals are cited in the boundaries of lands claimed by other Keanae residents. In other words, at least some of the Royal Patent Grantees were holding land in Keanae at the time of the Mahele, but did not file claims.

Table 1 summarises the characteristics of the four Keanae *huis*. Historically, all the *hui* lands have been unirrigated except for a few taro patches immediately adjacent to streams. The lands Pahoa and Pauwalu form a single raised, grassy plateau between Keanae and Wailua, cut by a narrow gulch called Waianu. Pahoa is the land west of Waianu, Pauwalu the east. Pauwalu-*mauka* and -*makai*⁴³ refer to sections on either side of the state highway. There is no overlap between these areas and the *kuleana* lands. Two Land Commission Awards and several individual Royal Patent Grants are located in Waianu gulch, but these lie along the stream, not on the upland flat. There are three Land Commission Awards with the location “Pahoa,” but these lie on Keanae Peninsula, far beneath the plateau. *Kuleanas* awarded to Hawaiians in Keanae comprised only taro patches and houselots, no *kula*. We can only speculate why the uplands were not claimed; the commoners may have believed that they had no right to these regions, historically *konohiki* lands.

TABLE I
The Keanae *huis*

Grant	Year Awarded	Area (acs.)	Location	Number of Grantees	Number of Grantees owning other lands	
					with LCAs	with RPGs
RPG 1899	1855	115.0	Kalii and Pauwalu- <i>mauka</i>	7	4	0
RPG 1911	1855	107.0	Pahoah and Waianu	19	4	5
RPG 2549	1859	151.65	Pauwalu- <i>makai</i>	15	8	2
RPG 3048	1861	43.5	Paehala	7	0	4

PARTIAL SOURCE: Territory of Hawaii 1916.

The distribution of *hui* members' holdings indicates that their *hui* share supplemented taro lands. Table 1 shows that many *hui* members held either a Land Commission Award or a Royal Patent Grant. The distribution of holdings also shows that the *huis* were associations of neighbours and relatives who purchased the uplands nearest to their homes and taro patches—perhaps the same *kula* lands that they had used before the Mahele. The *huis* of RPG 1899 and RPG 2549 included only Wailua Land Commission Awardees. The four Land Commission Awardees with shares in RPG 1911 all had *kuleanas* in Keanae; the five Royal Patent Grantees in this *hui* all had land in Waianu gulch. Moreover, there was evidently no advantage in having a share in more than one *hui*; only one individual had shares in two *huis*.

In all, 27 of the 45 *hui* members owned other lands in Keanae. This may not prove that all *hui* shareholders had taro lands elsewhere in the community, but "fee simple" ownership was never the only way to gain access to land in Hawaii. In the Mahele, natives often consolidated the claims of relatives to avoid the expense of many separate *kuleanas*.⁴⁴ Were the data more complete, we should likely discover that the *hui* members without other holdings were relatives and dependants living "under" landowners in traditional Hawaiian fashion. For example, 10 shareholders in RPG 1911 apparently had no other lands in Keanae. Yet five of these individuals are cited in the boundaries of lands claimed by other Keanae residents in the Mahele. Although they did not file claims or purchase individual Royal Patent Grants, they were clearly occupying and *using* land in Keanae at the time of the Mahele. Even with fragmentary evidence, there are several demonstrable kin relationships

among *hui* members. Four of the seven owners of RPG 3048 were related, for example. Father/son, brother, and brother-in-law relationships linked members of the other *huis*.

Tax records from the late 19th century⁴⁵ indicate that the Keanae *hui* lands were used for pasturage. In the property tax rolls for 1887, horses, mules and cows are commonly cited, most residents having no more than one or two horses or mules, and three or four cows each. One Kailiau of Wailua is noted with "151 acres *hui* land at Pauwalu." In 1890, this land is described as pasture and Kailiau is listed with 36 cows. In 1879, Kailiau and his brother Kaakuamoku purchased RPG 3223 in Pauwalu-*mauka*, adjoining the *hui* lands. Kailiau may have been an informal *luna* for RPG 2549, responsible for paying taxes on the land. The 36 cows probably represent the pooled number of animals grazed on the land. In the 1890 rolls, "M. Kaipo and Co." are similarly listed as having 107 acres of "pasture," the exact acreage of RPG 1911.

In Keanae, the land *huis* contributed to the survival and integrity of Hawaiian settlement. Keanae is a rarity in the islands today: a locale where Hawaiians have retained ownership of land for several generations. This long history of Hawaiian possession has made possible a distinctively Hawaiian community life that may exist nowhere else, except perhaps on Niihau.⁴⁶ The distribution of Land Commission Awards in Keanae was certainly a factor in this persistence. *Kuleanas* were awarded in two unbroken areas, Keanae Peninsula and Wailua Valley, not as small parcels in the middle of the land owned by hostile chiefs or foreigners. The taro fields and houselots are contiguous in these two locations, and are separated from the uplands by steep cliffs.

But the land *huis* are at least partly responsible for continued Hawaiian residence in Keanae. Even though villagers today complain about the uselessness of their shares, the *hui* lands have been owned by Hawaiians, not foreigners, and Hawaiian ownership has prevented appropriation of these lands by *haoles* 'whites.' In 1911, the Government condemned a portion of RPG 2549 to build a lighthouse. The suit named 132 residents as defendants, most of them Keanae and Wailua residents.⁴⁷ In the past century, the complicated land titles of the *huis* have had a perverse advantage: just as it has been difficult for most Hawaiians to use their undivided interests, so has it been difficult for outsiders to acquire these tracts. For example, East Maui Irrigation Company, a subsidiary of Alexander and Baldwin, is by far the largest single landowner in the Keanae area. For over 50 years, "E.M.I." has systematically bought up land in Keanae, including many shares in the *huis*, presumably to safeguard water rights. Although E.M.I. has a majority interest in the *hui* lands, the interest is none the less undivided:

many Hawaiians still own fractional shares, some as small as 1/240. Since the *huis* are not corporations or even associations at present, the irrigation company has no way to exercise control proportional to its interest. Hawaiians still have *de facto* possession of the *hui* lands.

Indeed, the *hui* lands along the state highway have become a third Hawaiian residential area. After the 1946 tidal wave swept over Keanae Peninsula, many families claimed their "shares" and moved up to the road. Since then, the *hui* lands have been an expansion area: a place for the children and grandchildren of Keanae people to build their homes. Most of the upland tracts are still used for pasturage, but along the highway the *hui* lands are lined with Hawaiian homes, effectively joining Keanae and Wailua into a single community.

CONCLUSION

The explanation for the emergence of land *huis* lies in the Mahele's impact on Hawaiian land tenure and use. Far from reincarnating an aboriginal institution, the land *hui* was an experiment of sorts. Tenancy-in-common, the principle of undivided land ownership, had no precedent in Hawaiian land tenure. As an experiment in collective enterprise, the *hui* must be termed a failure. As Handy and Pukui point out (1972:17), most Hawaiian *huis* were short-lived and marred by internal dissension. Native informants—from 19th century court witnesses to present-day Keanae villagers—attest that Hawaiians have difficulty co-operating in truly "communal" ventures outside the family. Observers have noted that working associations of neighbours and friends tend to become divided by personal animosities and differences of opinion (Finney 1979:66-67, Linnekin 1980:189 ff., 362-64). Only within the family, where hierarchical relations are well defined and the ethic of *aloha* (love) enjoins a degree of solidarity, have joint undertakings been relatively successful (Handy and Pukui 1972:17).

The land *hui* did re-establish a traditional principle of land, and specifically *kula* land, use: common access, household use. There was precedent for common access to open lands and upland tracts, the *kula*, in the Hawaiian productive system. This access was an expression of the *aloha* between chiefs and people, for all such lands belonged to the ruling chief. Individuals owned the standing crops that they cultivated, if not the land beneath. The use of the *kula*, like taro cultivation, was a domestic matter. Neither the care nor the consumption of crops was freely shared beyond the household, although work and food undoubtedly were the stuff of neighbourly exchange-in-kind, just as they are in Keanae today.

In Keanae, Hawaiians formed land *huis* to regain access to the upland *kula* after the Mahele instituted the principle of private and exclusive property. The *huis* effectively kept local lands in Hawaiian hands, and prevented their appropriation by foreigners who might turn the *kula* into sugar plantations, cattle ranches, or—in more recent times—condominiums. In other areas, the loss of access to the *kula* helped to drive the common people from their lands. The historical conditions that brought about the land *hui* eventually produced the ruin of traditional agriculture and the irrevocable alienation of Hawaiian lands. The immediate impetus for land *huis* was the Great Mahele, but the broader cause was the erosion of the reciprocal relationship between chiefs and people after the formation of the Hawaiian kingdom. The Mahele and the subsequent denial of access to the *kula* were manifestations of this loss of *aloha*. While theoretically protecting the rights of native tenants, the Mahele merely proved to be the first step in their ultimate dispossession.

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NOTES

1. A significant part of my research on Keanae involved reconstructing land histories and chains of title from archival and legal records. My sources for these materials were the Public Archives of the State of Hawaii (henceforth abbreviated as AH), the Bureau of Conveyances in Honolulu, and the Real Property Tax Office, County of Maui, in Wailuku.
2. Diacritics are supplied in accordance with the Pukui and Elbert (1971) dictionary. Glosses provided in parentheses are taken from the same source.
3. *Konohiki* means “landlord” or “headman.” Andrews (1865:294) gives the definition: “a person who has charge of a land with others under him.” The owning chief of a land section was its highest-level *konohiki*. The lands awarded to the chiefs as landlords became known as “*Konohiki* lands.”
4. Original in AH.
5. With the conquest of Oahu in 1794, Kamehemeha united the windward islands and founded the Hawaiian kingdom. As King Kamehemeha I, he ruled until his death in 1819 (See Kuykendall 1968:29-63).
6. Court of Equity, 1st circuit court (Honolulu), Case Number 165 (1850). Original in AH.
7. *Haku ʻaina* means literally “landlord” (Pukui and Elbert 1971:47). In this context, the

term refers to the family member responsible for managing the family lands. See Handy and Pukui 1972:6.

8. The *ahupua'a* was a unit of tribute collection in traditional times, and an administrative and tax-collecting unit under the state. Usually the *ahupua'a* was the province of a single chiefly "owner." The *ahupua'a* was also a unit of land redistribution; after the conquest, Kamehameha awarded *ahupua'a*s to the chiefs who had supported him.
9. Revised Laws of Hawaii 1925 II: 2152; Territory of Hawaii 1929: vii.
10. The 'ili was a named subdivision of the *ahupua'a*. In some areas, the 'ili contained a range of productive zones, with irrigated, dry, upland and beach sections. See Menzies 1920:77; Territory of Hawaii 1929: x.
11. *Kuleana* means "right, title, property, responsibility" (Pukui and Elbert 1971:165). Since the Mahele, *kuleana* has been synonymous with Land Commission Award.
12. Chinen (1958:31) cites "less than 30,000 acres" awarded to commoners, compared with 1,000,000 acres of Crown lands and 1,500,000 acres of Government lands.
13. Revised Laws of Hawaii 1925 II: 2141-2142.
14. Territory of Hawaii 1929:12.
15. Territory of Hawaii 1929:53-54.
16. Native Register 5:466. Microfilm copy in AH.
17. 'Awa (*Piper methysticum*), the Polynesian *kava*, is a native shrub related to pepper. An intoxicating drink is made from the root. See Kamakau 1976:41-44; Neal 1965:291-92.
18. *Wauke* (*Broussonetia papyrifera*), the paper mulberry, was the source of the native cloth, *tapa*, which was manufactured from the bark. See Kamakau 1976:39-40, 109-10; Neal 1965:301-302.
19. *Noni* (*Norinda citrifolia*), a shrub or small tree, came to Hawaii with the Polynesians. *Noni* had a variety of uses, including dyes and medicines (Neal 1965:804).
20. *Olonā* (*Touchardia latifolia*), a native shrub, was cultivated for its bark, source of a highly durable fibre. Prized for its resistance to sea water, *olonā* was made into ropes, cord, and fishnets (Neal 1965:319-20). See Kamakau 1976:44-45 for a detailed description of its cultivation and processing.
21. *Koa* (*Acacia koa*) is the finest native Hawaiian wood, used traditionally for canoes, war clubs and surfboards (Neal 1965:407-10).
22. The nuts of the *kukui* or candlenut tree (*Aleurites moluccana*) supplied a black dye and oil for lamps, among other products. They were also baked and eaten as a relish (Neal 1965:504-506).
23. Rev. Artemas Bishop to Rev. Richard Armstrong, April 30, 1850. Original in Department of Interior Lands File, AH.
24. Rev. P. J. Gulick to Dr Rufus Anderson, December 25, 1846. Original in Hawaiian Mission Children's Society Library, Honolulu (henceforth abbreviated as HMCS).
25. J. S. Emerson to the Land Commission, March 13, 1851. Original in Department of Interior Lands File, AH.
26. J. S. Emerson. Report on Waialua Station, 1835: p. 4. Typescript in HMCS.
27. Foreign Testimony 11: 448. Microfilm copy in AH.
28. J. S. Emerson to G. P. Judd, November 4, 1846. Original in Department of Interior Lands File, AH.
29. J. S. Emerson to Dr Rufus Anderson, March 25, 1850. Original in HMCS.
30. J. S. Emerson to J. Hall, December 29, 1846, and January 4, 1847. Originals in HMCS.
31. J. S. Emerson to Minister of Interior, March 22, 1850. Original in Department of Interior Lands File, AH.
32. J. S. Emerson to W. Richards and G. P. Judd, September 1, 1846. Original in Department of Interior Lands File, AH.
33. Rev. P. J. Gulick to Dr Rufus Anderson, December 25, 1846. Original in HMCS.

34. J. S. Emerson to W. Richards and G. P. Judd, September 1, 1846. Original in Department of Interior Lands File, AH.

35. Originals in AH.

36. Letters of Public Instruction, April 11, 1853, and May 9, 1853. Originals in AH.

37. Letters of Public Instruction, October 26, 1853. Original in AH.

38. Real Property Tax Books, Honolulu. Originals in AH.

39. Royal Patent Grants should not be confused with the Royal Patents issued on Land Commission Awards. The latter were *pro forma* quitclaims of the Government's interest in the land (Chinen 1958:14).

40. The *luna* was a local overseer appointed by a *konohiki*; he saw to such tasks as organising the maintenance of irrigation ditches. Andrews (1865:355) gives the definition: "a head man of a land who gives orders." The office of *luna* probably developed with the proliferation of *konohiki* strata after the formation of the Hawaiian kingdom.

41. Court of Equity, 1st circuit court (Honolulu), case number 775 (1894). Original in AH.

42. Territory of Hawaii 1916.

43. *Mauka* and *makai* refer to opposing directions: towards the mountain 'uka' and towards the sea 'kai.' To this day, islanders of all nationalities use these directional terms instead of the compass points.

44. J. S. Emerson to the Land Commission, March 13, 1851. Original in Department of Interior Lands File, AH.

45. Real Property Tax Books, Hana, Maui, 1887-92. Originals in AH. All other years are missing.

46. Niihau is a privately owned island west of Kauai. Access is restricted, and Hawaiians grow up speaking the Hawaiian language at home and in school.

47. They lost the suit by default because none of the defendants appeared, and thus were not entitled to compensation. Civil Case Number 76 (1911), Petition of U.S.A. vs. William F. Pogue *et al.* Judgment entered February 8, 1912.

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